REMARKS

Claims 1 through 22 are pending in the application.

Examiner has rejected claims 1, 2, 6, 7, 9, 10, 12, 13, 17,18 and 20 through 22 under 35 U.S.C. § 102(b) as being anticipated by USPN 5,630,103 (Smith).

Examiner has rejected claims 1, 3 through 7, 12, 14 through 16 and 20 under 35 U.S.C. § 102(b) as being anticipated by USPN 6,591,068 (Dietz).

Examiner has rejected claims 8, 11 and 19 under 35 U.S.C. § 103(a) as being unpatentable over Smith in view of USPN 6,209,103 (Aisenberg).

Applicant has variously amended the claims. Applicant respectfully traverses the rejection of the claims as amended.

Criteria for rejection of claims under 35 U.S.C. § 102 and 35 U.S.C. § 103

The criteria for a rejection under 35 U.S.C. § 102(b) has been clearly defined by the courts and confirmed by the U.S. Patent and Trademark Office. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

In order to establish a *prima facie* case of obviousness, the prior art references when combined must teach or suggest all the claim limitations.

Below, Applicant points out subject matter within each independent claim that is not disclosed or suggested by the cited art, whether considered alone or in combination. On the basis of this, Applicant believes all the claims are patentable over the cited art.

Discussion of Independent Claim 1

Claim 1 sets out a publication delivery system. A printing mechanism prints a publication. A response system monitors activity level around a physical location of the publication delivery system. The timing and number of printed publications printed by the printing mechanism are based on the activity level detected by the response system.

None of the cited references discloses or suggests a response system that monitors activity level around a physical location of the publication delivery system. None of the cited references discloses or suggests the timing and number of printed publications printed by the printing mechanism are based on the activity level detected by a response system.

Smith:

Examiner has asserted that Smith, at column 8, line 66 through column 9, line 11, discloses a response system that monitors activity around a physical location of a publication delivery system. This is incorrect. At

column 8, line 66 through column 9, line 11, Smith discloses a receiving computer that is equipped with a graphic user interface. A user is permitted to interact with the computer using full screen icons and pictures, typically controlling the computer activities with pointing devices such as computer mice. Smith does not disclose or suggest a response system that monitors activity level around a physical location of a publication delivery system.

Examiner has asserted that Smith at column 5, lines 24 through 65 and column 7, lines 14 through column 9, line 11 discloses that timing and number of printed publications printed by a printing mechanism are based on the activity detected by a response system. This is incorrect. In Smith's system data files are sent to a receiving subscriber's computer 48 for reproduction upon a viewer screen or printer. See column 5, lines 33 through 40. A user controls receiving computer using a graphics user interface. See column 8, line 66 through column 9, line 3. Nothing in Smith discloses or suggests that timing and number of printed publications printed by a printing mechanism are based on the activity level detected by a response system. As discussed above, Smith does not even disclose or suggest a response system that monitors activity level around a physical location of a publication delivery system.

Dietz:

Examiner has asserted that Dietz, at column 6, line 34 through column 7, line 41, discloses a response system that monitors activity around a physical location of a publication delivery system. This is incorrect. At column 6, line 34 through column 7, line 41, Dietz discloses using codes to download images from an image database computer 203. The guest can choose to view or print the image for a fee. Dietz does not disclose or suggest a response system that monitors activity level around a physical location of a publication delivery system.

Examiner has asserted that Dietz at column 6, line 34 through column 7, line 41 discloses that timing and number of printed publications printed by a printing mechanism are based on the activity detected by a response system. This is incorrect. At column 6, line 34 through column 7, line 41, Dietz discloses using codes to download images from an image database computer 203. The guest can choose to view or print the image for a fee. Nothing in Dietz discloses or suggests that timing and number of printed publications printed by a printing mechanism are based on the activity level detected by a response system. As discussed above, Dietz does not even disclose or suggest a response system that monitors activity level around a physical location of a publication delivery system.

Discussion of Independent Claim 9

Claim 9 sets out a method for distributing a publication by an automated kiosk. In response to a customer ordering a publication, a time stamp on a most recently printed publication stored in a storage area is checked and it is determined whether a fresher version of the printed publication is electronically available. When it is determined that a fresher version of the printed publication is not electronically available, the most recently printed publication stored in the storage area is delivered to the customer. When it is determined that a fresher version of the printed publication is electronically available and the customer indicates a willingness to wait for printing, the fresher version of the printed publication is obtained and printed out for delivery to the customer. None of this subject matter is disclosed or suggested by the cited references.

Smith:

Examiner has asserted that Smith, at column 6, lines 48 through 67 and column 7, line 47 through column 8, line 26 discloses a time stamp on a most recently printed publication stored in a storage area. This is incorrect. At column 6, lines 48 through 67 and column 7, line 47 through column 8, line 26, Smith is discussing details of transferring a data stream to a receiving computer.

In Smith, the receiving computer 48 receives a date and time that a file was created and ensures that the received timestamp represents a valid date. See column 7, lines 55 through 57. The received date is compared with the date of the file already stored on the receiving computer 48. See column 7, lines 58 through 60. However, Smith never checks a time stamp *on a most recently printed* publication stored in a storage area. Particularly, in Smith, the date of a file is checked. Smith does not disclose suggest checking the time stamp on a *printed* publication stored in a storage area.

Examiner has asserted that Smith at column 7, lines 47 through column 8, line 26, discloses determining whether a fresher version of the printed publication is electronically available. This is incorrect. At column 7, line 47 through column 8, line 26, Smith is discussing details of transferring a data stream to a receiving computer.

In Smith, a stored file is not overwritten when the stored file date is the same or later than the received file date. See column 7, lines 70 through 62. However, Smith does not disclose or suggest checking a time stamp *on a most recently printed* publication stored in a storage area. Particularly, in Smith, the date of a *file* is checked. Smith does not disclose suggest determining whether a fresher version of a *printed* publication is electronically available.

Examiner has asserted that Smith at column 5, lines 11 through 65 and column 7, line 52 through column 8, line 65 and Figures 6A and 6B, discloses

that when it is determined that a fresher version of the printed publication is electronically available and the customer indicates a willingness to wait for printing, the fresher version of the printed publication is obtained and printed out for delivery to the customer. This is incorrect. At column 5, lines 11 through 65 and column 7, line 52 through column 8, line 65 and Figures 6A and 6B, Smith is discussing details of transferring a data stream to a receiving computer. Smith does not disclose or suggest seeking or receiving from a customer an indication that the customer is willing to wait for a fresher version of a printed publication to be printed out for delivery.

Discussion of Independent Claim 12

Claim 12 sets out a method for distributing a publication by an automated publication delivery system. Activity level around a physical location of the publication delivery system is monitored. In response to detection of an increased activity level around the physical location of the automated publication delivery system, additional copies of the publication are printed for distribution.

None of the cited references discloses or suggests activity level around a physical location of a publication delivery system is monitored. None of the cited references disclose or suggest that in response to detection of an increased activity level around the physical location of the automated

publication delivery system, additional copies of the publication are printed for distribution.

Smith:

Examiner has asserted that Smith, at column 8, line 66 through column 9, line 11, discloses monitoring activity around a physical location of a publication delivery system. This is incorrect. At column 8, line 66 through column 9, line 11, Smith discloses a receiving computer that is equipped with a graphic user interface. A user is permitted to interact with the computer using full screen icons and pictures, typically controlling the computer activities with pointing devices such as computer mice. Smith does not disclose or suggest monitoring activity level around a physical location of a publication delivery system.

Examiner has asserted that Smith at column 5, lines 24 through 65 and colunn7, lines 14 through column 9, line 11 discloses that in response to detection of an increased activity level around the physical location of the automated publication delivery system, additional copies of the publication are printed for distribution. This is incorrect. In Smith's system data files are sent to a receiving subscriber's computer 48 for reproduction upon a viewer screen or printer. See column 5, lines 33 through 40. A user controls receiving computer using a graphics user interface. See column 8, line 66 through

column 9, line 3. Nothing in Smith discloses or suggests that in response to detection of an increased activity level around the physical location of the automated publication delivery system, additional copies of the publication are printed for distribution. As discussed above, Smith does not even disclose or suggest monitoring activity level around a physical location of a publication delivery system.

Dietz:

Examiner has asserted that Dietz, at column 6, line 34 through column 7, line 41, discloses monitoring activity around a physical location of a publication delivery system. This is incorrect. At column 6, line 34 through column 7, line 41, Dietz discloses using codes to download images from an image database computer 203. The guest can choose to view or print the image for a fee. Dietz does not disclose or suggest monitoring activity level around a physical location of a publication delivery system.

Examiner has asserted that Dietz at column 6, line 34 through column 7, line 41 discloses that in response to detection of an increased activity level around the physical location of the automated publication delivery system, additional copies of the publication are printed for distribution. This is incorrect. At column 6, line 34 through column 7, line 41, Dietz discloses using codes to download images from an image database computer 203. The guest

can choose to view or print the image for a fee. Nothing in Dietz discloses or suggests that in response to detection of an increased activity level around the physical location of the automated publication delivery system, additional copies of the publication are printed for distribution. As discussed above, Dietz does not even disclose or suggest monitoring activity level around a physical location of a publication delivery system.

Discussion of Independent Claim 21

Claim 21 sets out a printing mechanism for printing a publication.

Response System:

In Claim 21, a response system monitors activity around a physical location of the publication delivery system. This is not disclosed or suggested by the cited art.

Examiner has asserted that Smith, at column 8, line 66 through column 9, line 11, discloses a response system that monitors activity around a physical location of a publication delivery system. This is incorrect. At column 8, line 66 through column 9, line 11, Smith discloses a receiving computer that is equipped with a graphic user interface. A user is permitted to interact with the computer using full screen icons and pictures, typically controlling the computer activities with pointing devices such as computer

mice. Smith does not disclose or suggest a response system that monitors activity level around a physical location of a publication delivery system.

Timing and Number of Printed Publications:

Claim 21 sets out that timing and number of printed publications printed by the printing mechanism is based on the activity detected by the response system. This is not disclosed or suggested by the cited art.

Examiner has asserted that Smith at column 5, lines 24 through 65 and column 7, lines 14 through column 9, line 11 discloses that timing and number of printed publications printed by a printing mechanism are based on the activity detected by a response system. This is incorrect. In Smith's system data files are sent to a receiving subscriber's computer 48 for reproduction upon a viewer screen or printer. See column 5, lines 33 through 40. A user controls receiving computer using a graphics user interface. See column 8, line 66 through column 9, line 3. Nothing in Smith discloses or suggests that timing and number of printed publications printed by a printing mechanism are based on the activity level detected by a response system. As discussed above, Smith does not even disclose or suggest a response system that monitors activity level around a physical location of a publication delivery system.

Time Stamp Reader:

In claim 21, a time stamp reader reads a time stamp on a most recently printed publication stored in the storage area. The print delivery system uses the time stamp to determine freshness of the most recently printed publication stored in the storage area. This is not disclosed or suggested by the cited art.

Examiner has asserted that Smith, at column 6, lines 48 through 67 and column 7, line 47 through column 8, line 26 discloses a time stamp reader that reads a time stamp on a most recently printed publication stored in the storage area. This is incorrect. At column 6, lines 48 through 67 and column 7, line 47 through column 8, line 26, Smith is discussing details of transferring a data stream to a receiving computer.

In Smith, the receiving computer 48 receives a date and time that a file was created and ensures that the received timestamp represents a valid date. See column 7, lines 55 through 57. The received date is compared with the date of the file already stored on the receiving computer 48. See column 7, lines 58 through 60. However, Smith never checks a time stamp *on a most recently printed publication* stored in a storage area. Particularly, in Smith, the date of a file is checked. Smith does not disclose suggest checking the time stamp on a *printed* publication stored in a storage area.
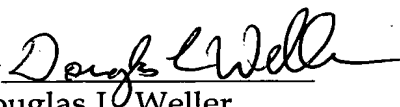
Examiner has asserted that Smith at column 7, lines 47 through column 8, line 26, discloses determining whether a fresher version of the printed publication is electronically available. This is incorrect. At column 7, line 47 through column 8, line 26, Smith is discussing details of transferring a data stream to a receiving computer.

In Smith, a stored file is not overwritten when the stored file date is the same or later than the received file date. See column 7, lines 70 through 62. However, Smith does not disclose or suggest checking a time stamp *on a most recently printed publication* stored in a storage area. Particularly, in Smith, the date of a *file* is checked. Smith does not disclose suggest determining whether a fresher version of a *printed* publication is electronically available.

Conclusion

Applicant believes this Amendment has placed the present case in condition for allowance and favorable action is respectfully requested.

Respectfully submitted,
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